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BANGALORE ELECTRICITY SUPPLY COMPANY LIMITED

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BESCOM

Volume I

SECTION-V

SPECIAL CONDITIONS OF CONTRACT

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VOLUME- I SEC-V
SPECIAL CONDITIONS OF CONTRACT

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BANGALORE ELECTRICITY SUPPLY COMPANY LIMITED

SPECIAL CONDITIONS OF CONTRACT

1.0 **GENERAL INFORMATION:**

1.1 The Bangalore Electricity Supply Company Limited. (A Government of Karnataka undertaking), having its Registered Office at Bengaluru (hereinafter called the **Owner**) intends to float the tender for Repairs / Rectification of faults in HT/LT underground cable in **East Circle** of BMA (North) Zone on item wise fixed price contract for two years on Total Turnkey **PERCENTAGE QUOTING BASIS.**

1.2 "Owner" shall mean Bangalore Electricity Supply Company Limited (BESCOM) For the purpose of execution of the Contract, the contractual activities on the part of the 'Owner', wherever context requires so, shall be performed by BESCOM.

1.3 Wherever reference to BESCOM is made in the bidding documents, Contract/Notification/Letter of Award (in the event of Award of Contract) or any related papers/documents, it shall be deemed to be "for Bangalore Electricity Supply Company Limited" only.

1.4 Unless brought out clearly, the Bidder shall be deemed to conform strictly to the provisions of Bidding Documents. Any discrepancy between Specifications and the catalogues of the Bid will not be considered.

1.5 The contents of Bidding Documents are as indicated under Clause 4.0, Section IFB, Conditions of Contract, Volume-I of Bidding Documents. The requirements, conditions, appendices etc., stated in Conditions of Contract (Volume-I), Bid Proposal Sheets (Volume-II), Technical Specifications and drawings (Volume-III) and shall be considered as part of this section as if bound together. In case of any discrepancy between the provisions of this Section and other volumes of the Bidding Documents, the provisions of this section shall prevail.

1.6 The respective rights of the Owner and Bidders/Contractors shall be governed by the Bidding Documents/Contracts signed between the Owner and the Contractor for the respective packages.

2.0 **SCOPE OF WORK**

2.1 The detailed scope of work covered under the package is specified in the IFB and Technical Specifications, Volume-III (TS) and is indicated briefly hereunder:

Design, engineering, testing, supply, erection and commissioning of the following:

The Scope of the work as enumerated in clause 2.0 of IFB

2.2 Before proceeding with the HT/LT UG Cable maintenance work, the Contractor shall fully familiarise himself with the site conditions. It shall be the responsibility of the Contractor to arrange all inputs required for detailed engineering and execution. The Bidders are advised to visit the site, collect all necessary inputs and acquaint themselves with the topography, infrastructure etc. The Contractor shall be fully responsible for providing all equipment, materials, systems and services specified or otherwise which are required to complete the work and successful testing & commissioning of the Transmission Lines.

2.3 All materials required for the works shall be supplied by the Contractor.

2.4 void.

2.5 Any other items not specifically mentioned in the Specifications but which are required for erection, testing, commissioning and satisfactory operation of the Distribution Lines are deemed to be included in the scope of the Specifications unless specifically excluded.

3.0 QUALIFYING REQUIREMENTS

As enumerated in Clause-14.0 of Invitation for Bids (IFB)

4.0 **PRICES:** The Prices for supply portion and execution/erection portion shall be **FIRM** throughout the period of contract.

5.0 TAXES

5.1 Taxes/GST shall be governed by relevant Clause of Section ITB and relevant Clause of Section GCC, Volume-I of the Bidding documents.

5.2 The statutory deduction of taxes at source, related to these works, shall be done by BESCOM. TDS so deducted shall be deposited with the relevant tax Authorities & TDS certificates shall be issued by BESCOM using their Permanent A/C number & TDS A/C number.

6.0 BASIS OF EVALUATION & COMPARISON

As the bid document is for a total turnkey HT/LT UG Cable maintenance work for supply and erection etc., the Bidders shall quote for all the equipments/materials and services mentioned. The offer will be considered incomplete if all the equipments and services are not offered and the bid will be rejected. The evaluation will be based on the schedule of requirements indicated in the bid proposal sheets. However the payment will be as per actual based on the unit rate approved.

6.1 Bidder has to quote for the complete scope of HT/LT UG Cable maintenance work. Bids for individual items or incomplete services shall be treated as incomplete and are liable to be rejected.

6.2 The techno – commercial evaluation:

6.3 For purpose of these clauses, a substantially responsive Bid is one, which conforms basically to all the terms and conditions of the

Bidding Documents without material deviation & confirming to technical specifications.

6.4 The Techno-commercial Bids will be evaluated generally on the following points but not restricted to the same.

a) Payment of the EMD,
b) Qualifying Requirements,
c) Completeness of the offer to carryout all the works as per requirement.
d) Completion period,
e) Acceptance for payment terms & confirming to all terms and other commercial

6.4.1 However, the BESCOM may waive any minor informality or non-conformity or irregularity in a Bid, which does not constitute to a material deviation, provided such waiver does not prejudice or affect the techno- commercial terms & conditions.

6.4.2 A Bid determined as substantially non-responsive will be rejected and may not subsequently be made responsive by the Bidder by correction of the non-conformity.

6.5 **COMPARISON OF BIDS**

6.5.1 The owner will evaluate and compare the Bids after determination of the substantial responsiveness of the Bids. Based on the rates quoted for each item in the Schedules, the cost per each item of works will be determined

6.5.2 The comparison shall be on the basis of total Unit Rates quoted above or below for Schedule of all supply & erection offered, which shall include all the costs as well as GST, duties, levies and taxes and also any discounts offered by the Bidder.

6.5.3 The bid evaluation shall be carried out on the **percentage quoted**. The Owner will evaluate and compare bids on the basis of a Bid or a combination of Bid in a manner most advantageous to the owner, and award of Contract(s) would be made to the Bidder for the bid on the basis of total percentage quoted for both supply & erection, as per provisions of the Bidding Documents.

7.0 MEASUREMENT AND TERMS OF PAYMENTS

The payment to the Contractor under the contract will be made by the Owner in line with Clause 34.0, Section GCC, Vol.-I and as per the guidelines and conditions specified hereunder. All payments made during the contract will be on on-account payment purpose only.

7.1 The payment for works shall be made on item wise basis only; The Contractor shall submit an application /Bill in quadruplicate (4 copies) to the Engineer-in-charge in prescribed form approved by the Engineer, only when all the works pertaining to each schedule is completed in all respects and is ready for commissioning. Payment will be made against item wise measurements for different works as per actual at the approved unit prices of Purchase order/contract order.

7.2 The payments to Contractor are subject to recoveries, which are due from the Contractor

7.3 The authorized representatives of the Engineer-in-charge and the Contractor shall jointly take the measurements. The representative of the Engineer-in-charge will give a week's notice to the Contractor of his intention to record the measurement immediately on report of completion of all works on a feeder by the Contractor and if the Contractors' representative fails to join the Engineer-in-charge representative, the latter may proceed with the measurements by himself and the Contractor shall have to accept these measurements as correct and binding on him.

The measurements shall be completed feeder wise on intimation in writing to the Engineer-in-charge within 7 days from the date of such intimation by the Contractor.

On the basis of the these joint measurements, payment will be made to the Contractor by the Engineer-in-charge according to the procedure prevalent in the ESCOM and as far as possible within 30 days after submission of the bills after recording the measurements as stated above or within reasonable time.

Payment will be made at the accepted rates for all works done according to the specifications and measurements and after commissioning the same. However where approval of the Inspectorate authorities is required under statute, payment shall be made only after such approval and after the feeder is duly charged. If applicable

7.4 All materials and work for which payment is made in part or full shall become the sole property of the BESCOM, but this provision shall not relieve the Contractor of his responsibility for the care and protection of the materials and works at his own cost and his liability to make good the damage if any unless and until the whole work is deemed to have been completed and commissioned and handed over to the BESCOM, in accordance with the terms and conditions of the Contract.

7.5 The periodical measurements and payments will not entitle the Contractor to any claim that the works for which payment has been made are accepted as complete in accordance with the specifications, drawings or other Contract documents and in no way will curtail the right of the Engineer-in-charge to subsequently direct the removal of imperfect work or pay at a lower reduced rate, or to re-measure the works.

These periodical payments shall be treated only as advance on account to be adjusted finally after the works are finally measured on completion and the final bill is prepared.

7.6 The Contractor shall not be entitled to claim any interest upon any arrears or upon any balance amount, which may be found due to him at any time except as stipulated in Paras supra above.

8.0 Void

9.0 **QUANTITY VARIATION**

9.1 The quantity of all equipment/materials given in the Bid Proposal Sheets, Volume-II of the bidding documents are provisional. The variation in quantity shall be limited to Twenty Five percent (25%) for the individual items and the total variations in all such items under the contract shall be limited to twenty Five percent (25%) of the contract price. The quantity variation shall be approved by the tender inviting authority.

10.0 **WORK SCHEDULE**

10.1 The Contractor shall execute the maintenance of HT/LT UG Cable Works on total turnkey basis which involves broadly the supply, transportation to works site, assembly, erection, assistance in testing and commissioning materials and returning the released materials to the respective O&M Divisional stores.

10.2 The details of equipment/materials to be supplied, transported, assembled, erected, tested and commissioned are indicated in Schedule of Works in Part-II, Section-I, and all the Schedules.
The quantities and details of Works to be executed will be intimated by the Engineer while issuing the Work orders against this Contract.

It is suggested that before finalising the orders for purchase of materials the Contractor undertakes to survey the works to be carried out and makes a reliable estimate of the actual quantity of each material required for the intended works. The Engineer-in-charge shall arrange to facilitate the Contractor by furnishing the details of the works and route profile etc., as may be required for the purpose, including deputing the ESCOM officers to the extant deemed necessary by him. However delay if any in this regard shall not constitute a valid ground for delay in completion of works.

10.3 Any other items of work not specifically mentioned, but which are essentially required for satisfactory performance & completeness of these works, shall be deemed to be included in the scope of works and the same shall be executed / carried out by the Contractor at no extra cost to the BESCOM.

10.4 Reference of incoming 11 kV Lines and reference of outgoing HT and LT Lines will have been set up on the site by the Engineer-in-charge. The Contractor at his own cost and responsibility locate and establish structures etc., as may be required for the execution of works according to the drawings and specifications as required by the Engineer-in-charge. Such setting out will be subject to a check by the Engineer-in-charge and his staff. The Contractor shall provide at his own cost, all labour, materials and instruments that may be required for carrying out the check and such a check shall not however absolve the Contractor of his responsibility from carrying out the works strictly according to drawings and specifications and as per instructions issued to him by the Engineer-in-charge during the execution of the work.

10.5 The whole of the works together with any temporary works associated therewith shall be carried out by the Contractor in a satisfactory and workmanship like manner with the materials and workmanship as specified to the entire satisfaction of the Engineer-

in-charge, and in such a manner as the Engineer-in-charge may direct. The Contractor shall attend to and carryout without any delay all orders and instructions which the Engineer-in-charge may issue from time to time.

10.6 The whole of the works shall be executed in strict conformity with the Contract documents and such explanatory, detailed or modified drawings and directions as may be furnished from time to time by the Engineer-in-charge for the guidance of the Contractor

10.7 The Bidder shall include in his proposal his programme for furnishing and erecting the contract order. The programme shall be in the form of a bar chart/master network identifying key phases in various areas of total work like procurement of raw material/bought out items/components, manufacturing, type testing, supply of materials and field activities such HT/LT UG cables maintenance works and others, so as to achieve testing & commissioning of all equipments/ materials under each as per the conditions stipulated at the time of individual contract orders.

10.8 The schedule shall be reckoned from the date of issue of Letter of Award/contract order. Within 15 (fifteen) days of issuance of Letter of Award/contract order, Contractor shall submit Bar Chart/PERT Network conforming to the delivery/erection dates mentioned in Letter of Award for review and approval. After approval of Bar Chart/ PERT Network, one reproducible with sufficient number of prints as desired by BESCOM shall be submitted.

11.0 **CONTRACT PERFORMANCE GUARANTEE**

11.1 The successful Bidder shall furnish within 15 days from the date of issue of LOI.

11.2 **PERFORMANCE GUARANTEE:** The guarantee shall be furnished as per clause 33.0 of Instruction to Bidders.

12.0 **PENALTY FOR DELAY IN EXECUTION OF THE WORK.**

12.1 The penalty shall be ½ % per week of delay or part thereof subject to a maximum of 10 % on the portion of work which is not completed for beneficial use within the time stipulated in relevant clause of the individual Orders issued against the Contract

12.2 The period of continuance of delay beyond 30 weeks shall be at the discretion of the Engineer. If the Contractor still fails to complete the work within such extended period, the Contract shall be cancelled

12.3 Penalties levied for the following:

a) Non-fulfilment of program of works within the stipulated period.

b) The number of days allowed beyond the stipulated period for completing the work and

c) Extra cost that might be incurred by the ESCOM for getting the balance work completed through any other agency as it deems fit under the circumstances will be deducted from money due to him by the ESCOM for work done under the Contract or otherwise.

13.0 **FUNCTIONAL GUARANTEES,**

13.1 The Bidder shall guarantee that the work carried out shall meet the rating and performance requirements stipulated for various equipment covered in this specification. The Bidder shall also furnish a declaration and details in the manner prescribed in the relevant schedule of Bid Proposal Sheets for guarantees which shall attract levy of liquidated damages for non-performance as given below:

13.2 If the guarantees are not established at factory tests, then BESCOM at its discretion may reject or accept the equipment after assessing the liquidated damages against the Contractor and such amounts shall be deducted from the Contract Price or otherwise recovered from the Contractor.

13.3 The guaranteed loss at rated voltage for each equipment/item shall be corrected in accordance with latest IS for the purpose of comparison of guaranteed losses with measured losses for levy of liquidated damages. However, the equipment under no circumstances shall be accepted if the measured losses are more than (+)15 percent of the guaranteed losses at rated voltage quoted by the Bidder.

13.4 The amount of liquidated damages so recoverable shall be without any ceiling and shall not prejudice the Contractor's other liabilities under the Contract in any manner. The liquidated damages for shortfall in guaranteed parameters and for delay in completion are independent of each other and shall be applicable separately and concurrently.

14.0 INDEMNITY BOND

14.1 For the materials/equipment to be provided by the Contractor and/or for the Owner supplied items, it will be the responsibility of the Contractor to take delivery, unload and store the materials at site and execute an indemnity bond as per proforma at Annexure, in favour of BESCOM against loss, damage and risks involved for the full value of the materials. This indemnity bond shall be furnished by the Contractor before commencement of the supplies and shall be valid till the scheduled date of testing, commissioning and handing over the transmission line to BESCOM.

15.0 STORAGE-CUM-ERECTION INSURANCE

In addition to conditions specified in Clause No. 37.0 Section GCC, Vol.-I following shall also apply:

15.1 All the equipment and materials including spares, if any, being supplied by the Contractor shall be kept completely insured by the Contractor at his cost from time of dispatch from the Contractor’s works/Sub-vendor’s works, up to the completion of erection, testing & commissioning at site and taking over of the transmission line by BESCOM in accordance with the Contract.

15.2 Further all equipment and materials being supplied by BESCOM for the erection (as per Technical Specification) shall be kept insured by the Contractor against any loss, damage, pilferage, theft, fire, etc. from the point of unloading up to the time of taking over by BESCOM including handling, transportation, storage, erection, testing and commissioning etc. The premium paid to the Insurance

company by the Contractor for such insurance shall be reimbursed by BESCOM to the Contractor. The Contractor shall obtain competitive quotation for such insurance and shall take prior approval from BESCOM before taking the insurance. The insurable value of the equipment being supplied by BESCOM shall be intimated to the Contractor for arranging the insurance.

15.3 It will be the responsibility of the Contractor to lodge, pursue and settle all claims with the insurance company in case of any damage, loss, theft, pilferage or fire during execution of Contract and BESCOM shall be kept informed about it. The Contractor shall replace the lost/damaged materials promptly irrespective of the settlement of the claims by the underwriters and ensure that the work progress is as per agreed schedules. The losses, if any, in such replacement will have to be borne by the Contractor.

16.0 **POWER, WATER & COMMUNICATION**

The Contractor shall make his own arrangements for power, water, telephone and other facilities necessary for the construction/erection of transmission line at his own cost.

17.0 **LAND FOR CONTRACTOR's OFFICE, STORE, WORKSHOP ETC**.

The Contractor shall make his own arrangement for land for construction of his field office, workshop, stores, magazines for explosives in isolated locations, assembling yard, etc. as required for execution of the Contract at his own cost.

18.0 **PROGRESS REPORTS**

18.1 During execution of the Contract, the Contractor shall furnish monthly progress reports to BESCOM in a format as specified by BESCOM, indicating the progress achieved during the month, and total progress up to the month against scheduled and anticipated completion dates in respect of activities covered in programmes/schedules referred to above. If called for by BESCOM, Contractor shall also furnish to BESCOM resources data in a specified format and time schedule. The Contractor shall also furnish any other information that is necessary to ascertain progress, if called for by BESCOM.

19.0 **FIRST AID**

19.1 To deal with emergency/accidental eventualities at works site, the Contractor shall make all such arrangements necessary, such as services of an ambulance etc. for transportation to hospital at his own cost.

20.0 **BID GUARANTEE :** As per Clause 33 of ITB.

21.0 **APPROVAL FROM SEVERAL AUTHORITIES UNDER STATUTE**

Approval for the forest clearance, Railway crossings, Electrical Inspectorate, Telecom etc., shall be obtained various Authorities

under statute and owner will coordinate for obtaining the necessary approvals and the necessary charges for the above are to be paid by the Contractor.

General Manager(Ele.,) Procurement, BESCOM.

Volume I

SECTION – ANNEXURES (If Applicable)

ANNEXURE-A

PROFORMA OF JOINT UNDERTAKING BY MANUFACTURER ALONGWITH THE BIDDER/CONTRACTOR

NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE

THIS DEED OF UNDERTAKING executed this……day of Two Thousand and…….by ……., a Company incorporated under the laws of ……..and having its Registered Office at ……..(hereinafter called the "Manufacturer" which expression shall include its successors, executors and permitted assigns), and …… a Company incorporated under the laws of ……..having its Registered Office at ……..(hereinafter called the "Bidder"/"Contractor" which expression shall include its successors, executors and permitted/assigns) in favour of Bangalore Electricity Supply Company Limited., (BESCOM) having its Registered Office at K.R.Circle, Bangalore – 560 001, Karnataka State (hereinafter called the "Owner" which expression shall include its successors, executors and permitted assigns).

WHEREAS the "Owner" invited Bid as per its Enquiry No……..for the manufacture, fabrication, supply of …… for ……..

AND WHEREAS Clause No……., Section ……., of……, Vol……forming part of the Bid Documents inter-alia stipulates that the Bidder along with Manufacturer must fulfill the Qualifying Requirements and be jointly and severally bound and responsible for the quality and timely supply of tower parts in the event the Bid submitted by the Bidder is accepted by the Owner resulting in a Contract.

AND WHEREAS the Bidder has submitted its Bid to the Owner vide Proposal No…….dated……..based on tie up with the Manufacturer for supply of ……..

NOW THEREFORE THIS UNDERTAKING WITNESSTH as under:

1.0 In consideration of the award of Contract by the Owner to the Bidder (hereinafter referred to as the “Contract”) we, the Manufacturer and the Bidder/Contractor do hereby declare that we shall be jointly and severally bound unto Bangalore Electricity Supply Company Limited., for the manufacture, testing, supply of tower parts on FOR destination delivery at site basis in accordance with the Contract Specifications.

2.0 Without in any way affecting the generality and total responsibility in terms of this Deed of Undertaking, the Manufacturer hereby agrees to depute their representatives from time to time to the Owner’s Project site as mutually considered necessary by the Owner, Bidder/Contractor and the Manufacturer to ensure proper quality, manufacture, testing and supply on FOR destination delivery at site basis and successful performance of the material in accordance with Contract Specifications. Further, if the Owner suffers any loss or damage on account of non-performance of the material fully meeting the performance guaranteed as per Bid Specification in terms of the contract. We the Manufacturer and the Contractor jointly and severally undertake to pay such loss or damages to the Owner on its demand without any demur.

3.0 This Deed of Undertaking shall be construed and interpreted in accordance with the laws of India and the Courts in Bangalore City of Karnataka State in India shall have exclusive jurisdiction in all matters arising under the Undertaking.

4.0 As a security, the ‘Manufacturer shall apart from the Contractor’s performance guarantee of 15% of the contract price, furnish a Contract Performance Guarantee from its Bank in favour of the Owner in a form acceptable to the Owner. The value of such guarantee shall be equivalent to 2% of the cost of tower parts to be supplied by the Manufacturer as identified in the Contract awarded by the Owner to the Bidder/Contractor and it shall be part of guarantee towards the faithful performance/compliance of this Deed of Undertaking in terms of the Contract. The guarantee shall be unconditional, irrevocable and valid for the entire period of the Contract, namely till the end of the warranty period under the Contract. The Bank Guarantee amount shall be payable to the Owner on demand without any reservation or demur.

5.0 We, the Manufacture/Bidder/Contractor agree that this Undertaking shall be irrevocable and shall form an integral part of the Contract and further agree that this Undertaking shall continue to be enforceable till the Owner discharges it. It shall become operative from the effective date of Contract.

IN WITNESS WHEREOF the Manufacturer and the Bidder/Contractor have through their Authorised Representatives executed these presents and affixed

Common seals of their respective Companies on the day, month and year first above mentioned.

WITNESS

For Manufacturer

1. ..... Signature of Authorised
(Signature) Representative.
(Name in Block Letter) Name.....
(Office Address) Common Seal of Company

.....

For Bidder

2. ..... Signature of Authorised

(Signature) Representative

(Name in Block Letter) Name .....

(Office Address) Common Seal of Company

.....

Note

(i) The Deed of Joint Undertaking shall be attested by Notary Public of the place(s) of the respective executant(s).

(ii) In case the bid is submitted by a Joint Venture (JV) of two or more firms as partners, then the Joint deed of undertaking shall be modified accordingly.

ANNEXURE-B

PROFORMA OF BANK GUARANTEE
FOR EMD
(To be stamped in accordance with Stamp Act)
The non-judicial stamp paper should be in the name of issuing Bank

Ref. …… Bank Guarantee No. ……

Date
……

To

_____
----------,
----------,
----------.

Dear Sirs,

In accordance with Invitation to Bid under your Specification No.. ……M/s
---
…….having its Registered / Head Office at ---------- ……(hereinafter called the 'Bidder') wish to participate in the said Bid or……and you, as a special favour have agreed to accept an irrevocable and unconditional Bank Guarantee for an amount of……. valid upto …….on behalf of Bidder in lieu of the Bid deposit required to be made by the Bidder, as a condition precedent for participation in the said Bid.

We, the …… Bank at……(local address) having our Head Office at……. guarantee and undertake to pay immediately on demand by BESCOM the amount of …….
(in words & figures)
without any reservation, protest, demur and recourse. Any such demand made by said 'Owner' shall be conclusive and binding on us irrespective of any dispute or difference raised by the Bidder.

This Guarantee shall be irrevocable and shall remain valid up to and including…… @ ……. If any further extension of this guarantee is required, the same shall be extended to such required period (not exceeding one year) on receiving instructions from M/s ……on whose behalf this guarantee is issued.

In witness whereof the Bank, through its authorised officer, has set its hand and stamp on this**.....**day of……200 …….at……

WITNESS

…… ……
(Signature) (Signature)

…… ……
(Name) (Name)

…… ……
(Official Address) (Designation with Bank Stamp)

Attorney as per
Power of Attorney No. ……..
……
Dated……

@ This date shall be thirty (30) days after the last date for which the bid is valid.

ANNEXURE-C

PROFORMA OF BANK GUARANTEE FOR CONTRACT PERFORMANCE
(To be stamped in accordance with Stamp Act)

Ref. …… Bank Guarantee No. ……

Date ……

To

_____
----------,
----------.

Dear Sirs,

In consideration of ---------- (hereinafter referred to as the 'Owner' which expression shall unless repugnant to the context or meaning thereof include its successors, administrators and assigns) having awarded to M/s …… with its Registered/Head office at ……(hereinafter referred to as the "Contractor" which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), a Contract by issue of Owner's Letter of Award No……dated……and the same having been acknowledged by the Contractor, resulting in a Contract, bearing No. ……dated. ……valued at ……for …… (scope of Contract) and the Contractor having agreed to provide a Contract Performance Guarantee for the faithful performance of the …… of the said value of the Contract to the Owner.

We……
(Name & Address)
having its Head Office at……(hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Owner on demand any and all monies payable by the Contractor to the extent of…… . ……as aforesaid at any time up to ……$$……(days/month/year)

without any demur, reservation, contest, recourse or protest and/or without any reference to the Contractor.
Any such demand made by the Owner on the Bank shall be conclusive and binding not withstanding any difference between the Owner and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of the Owner and further agrees that the guarantee herein contained shall continue to be enforceable till the Owner discharges this guarantee.

The Owner shall have the fullest liberty without affecting in any way the liability of the Bank under this guarantee, from time to time to extend the time for performance of the Contract by the Contractor. The Owner shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Owner and the Contractor or any other course or remedy or security available to the Owner. The Bank shall not be released of its obligations under these presents by any exercise by the Owner of its liberty with reference to the matters aforesaid or any of them or by reason of any other act of omission or commission on the part of the Owner or any other indulgences shown by the Owner or by any other matter or thing whatsoever which under law would, but for this provision have the effect of relieving the Bank.

The Bank also agrees that the Owner at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Contractor and not withstanding any security or other guarantee the Owner may have in relation to the Contractor’s liabilities.

Notwithstanding anything contained hereinabove our liability under this guarantee is restricted to ……and it shall remain in force up to and including ……..and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s ……on whose behalf this guarantee has been given.

Dated this…….day of ……20…….at……

WITNESS

…….	…….
(Signature)	(Signature)
…….	…….
(Name)	(Name)
…….	…….
(Official Address)	(Designation with Bank Stamp)

Attorney as per Power of
Attorney No. ……

Date .....

$$ The date will be ninety (90) days after the end of Warranty Period as specified in the Contract.

NOTE: The stamp papers of appropriate value shall be purchased in the name of issuing Bank.

ANNEXURE-D

PROFORMA OF EXTENSION OF BANK GUARANTEE
(To be stamped in accordance with Stamp Act)

Ref. …… **Date ……..**

_____
----------,
----------,
----------.

Dear Sirs,

Sub: Extension of Bank Guarantee No……. for Rs…….. favouring yourselves, expiring on…… on account of M/s…… in respect of Contract No…… dated…….. (hereinafter called original Bank Guarantee).

At the request of M/s ……., we…….. Bank, branch office at…….. and having its Head Office at …….. do hereby extend our liability under the above-mentioned Guarantee No…….. dated……. for a further period of …….. years/months from …….. to expire on……. Expect as provided above, all other terms and conditions of the original Bank Guarantee No……dated ……..shall remain unaltered and binding.

Please treat this as an integral part of the original Bank Guarantee to which it would be attached.

Yours Faithfully,
For……
Manager/Agent/
Accountant
Power of Attorney No
……
Dated……
.

SEAL OF BANK

NOTE: The non-judicial stamp paper of appropriate value shall be purchased in the name of the Bank, which has issued the Bank Guarantee.

ANNEXURE-E

PROFORMA OF LETTER OF UNDERTAKING
(To be submitted by the Bidder along with his Bid)
(To be executed on non-judicial stamp paper of requisite value)

Ref.: **Date:**

To

_____
----------,
----------.

Dear Sir,

1. I*/We* have read and examined the following bid documents relating to
the .....(Full scope of work).

a) Notice Inviting Tender

b) Conditions of Contract (Non-IDA Supply-cum-Erection containing Sections Invitation to Bid (INV)", " Instructions to Bidders (INB)", "General Terms & Conditions of Contract (GCC)" and "Erection Conditions of Contract (ECC)").

c) Special Conditions of Contract alongwith Annexure……to……
……

d) Drawing Nos……

e) Technical Specifications.

2. I*/We* hereby submit our Bid and undertake to keep our Bid valid for a period of 180 days from the date of bid i.e. upto ……I*/We* hereby further undertake that during the said period I/We shall not vary/alter or revoke my/our Bid.

This undertaking is in consideration of BESCOM agreeing to open my/our* Bid and consider and evaluate the same for the purpose of award of Work in terms of provisions of clause entitled "Award of Contract", Section INB, Conditions of Contract in the Bid Documents.

Should this Bid be accepted, *I/we* also agree to abide by and fulfill all the terms & conditions of provisions of the above mentioned bid documents.

Signature along with Seal of Company

.....

(Duly authorised to sign the Bid on behalf of the

Contractor)

Name.....

Designation.....

Name of Company.....

(in Block Letters)

WITNESS

Signature ..... Date & Postal Address

Date..... .....

Name & Address..... .....

..... Telephone No.....

Fax No.....

*Strike out whichever is not applicable.

ANNEXURE-F

PROFORMA OF INDEMNITY BOND TO BE EXECUTED BY THE CONTRACTOR
FOR EQUIPMENT HANDED OVER FOR PERFORMANCE OF ITS CONTRACT

(Entire Equipment consignment in one lot)
(On non-Judicial stamp paper of appropriate Value)

INDEMNITY BOND

THIS INDEMNITY BOND is made this……day of ……20 ……..by ……a Company registered under the Companies Act, 1956/Partnership Firm/Proprietary Concern having its Registered Office at ……(hereinafter called as 'Contractor' or "Obligor" which expression shall include its successors and permitted assigns) in favour of--------, a Company incorporated under the Companies Act, 1956 having its Registered Office at ---------- and its project at ……. (hereinafter called "BESCOM" Which expression shall include its successors and assigns):

WHEREAS ____ has awarded to the Contractor a Contract for……. vide its Letter of Award/Contract No ……. dated ……..and its Amendment No. ……and Amendment No……. (applicable when amendments have been issued) (hereinafter called the "Contract") in terms of which ____ is required to hand over various equipment to the Contractor for execution of the Contract.

And WHEREAS by virtue of Clause No……. of the said Contract, the Contractor is required to execute an Indemnity Bond in favor of ____ for the Equipment handed over to it by ____ for the purpose of performance of the Contract/Erection portion of the Contract (hereinafter called the "Equipment'').

NOW THEREFORE**,** This Indemnity Bond witnesseth as follows:

1. That in consideration of various equipment as mentioned in the Contract, valued at Rs. ……(Rupees……) handed over to the Contractor for the purpose of performance of the Contract, the Contractor hereby undertakes to indemnify and shall keep ___ indemnified, for the full value of the Equipment. The Contractor hereby acknowledges receipt of the Equipment as per dispatch title documents handed over to the Contractor duly endorsed in their favour and detailed in the Schedule appended hereto. It is expressly understood by the Contractor that handing over of the

dispatch title documents in respect of the said Equipment duly endorsed by ____ in favour of the Contractor shall be construed as handing over of the Equipment purported to be covered by such title documents and the Contractor shall hold such Equipment in trust as a Trustee for and on behalf of ____.

2. That the Contractor is obliged and shall remain absolutely responsible for the safe transit/protection and custody of the Equipment at ____ project Site against all risks, whatsoever, till the Equipment are duly used/erected in accordance with the terms of the Contract and the Plant/Package duly erected and commissioned in accordance with the terms of the Contract, is taken over by _____. The Contractor undertakes to keep _____ harmless against any loss or damage that may be caused to the Equipment.

3. The Contractor undertakes that the Equipment shall be used exclusively for the performance/execution of the Contract strictly in accordance with its terms and conditions and no part of the equipment shall be utilized for any other work or purpose whatsoever. It is clearly understood by the Contractor that non-observance of the obligations under this Indemnity Bond by the Contractor shall inter-alia constitute a criminal breach of trust on the part of the Contractor for all intents and purpose including legal/penal consequences.

4 That ____ is and shall remain the exclusive Owner of the Equipment free from all encumbrances, charges or liens of any kind, whatsoever. The Equipment shall at all times be open to inspection and checking by Engineer-in-Charge/Engineer or other employees/agents authorised by him in this regard. Further, ____ shall always be free at all times to take possession of the Equipment in whatever form the Equipment may be, if in its opinion the Equipment are likely to be endangered, mis-utilised or converted to uses other than those specified in the Contract, by any acts of omission or commission on the part of the Contractor or any other person or on account of any reason, whatsoever, and the Contractor binds himself and undertakes to comply with the direction of demand of ____ to return the Equipment without any demur or reservation.

5 That this indemnity Bond is irrevocable. If at any time any loss or damage occurs to the Equipment or the same or any part thereof is mis-utilised in any manner whatsoever, then the Contractor hereby agrees that the decision of the Engineer-in– Charge/Engineer of ___ as to assessment of loss or damage to the Equipment shall be final and binding on the Contractor. The Contractor binds itself and undertakes to replace the lost and/or damaged Equipment at its own cost and/or shall pay the amount of loss of ____ without demur, reservation or protest. This is without prejudice to any other right or remedy that may be available to ___ against the Contractor under the Contract and under this Indemnity Bond.

6. NOW THE CONDITION of this Bond is that if the Contractor shall duly and punctually comply with terms and conditions of this Bond to the satisfaction of ____, THEN, the above Bond shall be void, but otherwise, it shall remain in full force and virtue.

IN WITNESS WHEREOF, the Contractor has hereunto set its hand through its authorised representative under the common seal of the Company, the day, month and year first above mentioned.

SCHEDULE

Particulars of the Equipment handed over	Quantity	Particulars of Despatch Title Documents		Value of the Equipment	Signature of Attorney (authorised representative) as a token of receipt
		RR/GR No./ Date of Bill of Lading	Carrier		

For and on behalf of

M/s.....

WITNESS

1. 1. Signature .....
   Signature .....

   2. Name .....
   Name .....

   3. Address ..... Designation

   Authorised representative$

2. 1. Signature .....

   2. Name ..... (Common Seal in case of Company)

3. Address .....

———————————————————————————————————————

$ Indemnity Bonds are to be executed by the authorised person and (i) in case of Contracting Company under common seal of the Company or (ii) having the Power of Attorney issued under common seal of the company with authority to execute Indemnity Bonds, (iii) In case of (ii), the original Power of Attorney if it is specifically for this Contract or a Photostat copy of the Power of Attorney if it is General Power of Attorney and such documents should be attached to Indemnity Bond.

PROFORMA OF INDEMNITY BOND TO BE EXECUTED BY THE CONTRACTOR FOR THE EQUIPMENT HANDED OVER IN INSTALMENTS FOR PERFORMANCE OF ITS CONTRACT

(On non-judicial stamp paper of appropriate value)

INDEMNITY BOND

THIS INDEMNITY BOND is made this ..... day of ..... 20 ..... by ....., a Company registered under the Companies Act, 1956/Partnership Firm/Proprietary Concern having its Registered Office at ..... (hereinafter called as 'Contractor' or 'Obligor' which expression shall include its successors and permitted assigns) in favour of ____, a Company incorporated under the Companies Act, 1956 having its Registered Office at ----------and its project at .....(hereinafter called "___" which expression shall include its successors and assigns).

WHEREAS _____ has awarded to the Contractor a Contract for ..... vide its Letter of Award/Contract No. ..... dated ..... and Amendment No. .... and Amendment No. .... (applicable when amendments have been issued) (hereinafter called the 'Contract') in terms of which ___ is required to hand over various Equipment to the Contractor for execution of the Contract.

AND WHEREAS by virtue of Clause No. ..... of the said Contract, the Contractor is required to execute an Indemnity Bond in favour of ___ for the Equipment handed over to it by _____ for the purpose of performance of the Contract/Erection portion of the Contract hereinafter called the 'Equipment').

NOW THEREFORE, This Indemnity Bond witnesseth as follows :

1. That in consideration of various Equipment as mentioned in the Contract, valued at Rs. ..... (Rupees .....) to be handed over to the Contractor in installments from time to time for the purpose of performance of the Contract, the Contractor hereby undertakes to indemnify and shall keep ____ indemnified, for the full value of the Equipment. The Contractor hereby acknowledges receipt of the initial installment of the equipment as per details in the Schedule appended hereto. Further, the Contractor agrees to acknowledge receipt of the subsequent installments of the Equipment as required by ____ in the form of Schedules consecutively numbered which shall be attached to this Indemnity Bond so as to form integral parts of this Bond. It is expressly understood by the Contractor that handing over the dispatch title documents in respect of the said Equipment duly endorsed by ____ in favour of the Contractor shall be

construed as handing over the Equipment purported to be covered by such title documents and the Contractor shall hold such Equipment in trust as a Trustee for and on behalf of ____.

2. That the Contractor is obliged and shall remain absolutely responsible for the safe transit/protection and custody of the Equipment at ____ project Site against all risks, whatsoever, till the Equipment are duly used/erected in accordance with the terms of the Contract and the Plant/Package duly erected and commissioned in accordance with the terms of the Contract, is taken over by ____. The Contractor undertakes to keep ___*** harmless against any loss or damage that maybe caused to the Equipment.

3. The Contractor undertakes that the Equipment shall be used exclusively for the performance/execution of the Contract strictly in accordance with its terms and conditions and no part of the equipment shall be utilised for any other work or purpose, whatsoever. It is clearly understood by the Contractor that non-observance of the obligations under this Indemnity Bond by the Contractor shall inter-alias constitute a criminal breach of trust on the part of the Contractor for all intents and purpose including legal/penal consequences.

4. That _____ is and shall remain the exclusive Owner of the Equipment free from all encumbrances, charges or liens of any kind, whatsoever. The Equipment shall at all times be open to inspection and checking by Engineer-in-Charge/Engineer or other employees/agents authorised by him in this regard. Further, ____shall always be free at all times to take possession of the Equipment in whatever form the Equipment may be, if in its opinion the Equipment are likely to be endangered, mis-utilised or converted to use other than those specified in the Contract, by any acts of omission or commission on the part of the Contractor or any other person or on account of any reason, whatsoever, and the Contractor binds himself and undertakes to comply with the directions of demand of ____ to return the equipment without any demur or reservation.

5. That this Indemnity Bond in irrevocable. If at any time any loss or damage occurs to the Equipment or the same or any part thereof is mis-utilised in any manner whatsoever, then the Contractor hereby agrees that the decision of the Engineer-in-Charge/Engineer of ____ as to assessment of loss or damage to the Equipment shall be final and binding on the Contractor. The Contractor binds itself and undertakes to replace the lost and/or damaged Equipment at its own cost and/or shall pay the amount of loss to ___ without any demur, reservation or protest. This is without prejudice to any other right or remedy that may be available to _____against the Contractor under the Contract and under this Indemnity Bond.

6. NOW THE CONDITION of this Bond is that if the Contractor shall duly and punctually comply with the terms and conditions of this Bond to

the satisfaction of ____. THEN above Bond shall be void, but otherwise, it shall remain in full force and virtue.

IN WITNESS WHEREOF, the Contractor has hereunto set its hand through its authorised representative under the common seal of the Company, the day, month and year first above mentioned.

SCHEDULE No. 1

Particulars of the Equipment handed over	Quantity	Particulars of Dispatch Title Documents		Value of the Equipment	Signature of Attorney (authorised representative) as a token of receipt
		RR/GR No./ Date of Bill of Lading	Carrier		
(Please number	Subsequent	Schedules)			

For and on behalf of M/s.....

WITNESS

1. 1. Signature .....
   Signature .....

   2. Name .....
   Name .....

   3. Address .....
   Designation .....

Authorised representative$

2. 1. Signature .....

   2. Name ..... (Common Seal)

   3. Address ..... (In case of Company)

$ Indemnity Bonds are to be executed by the authorised person and (i) in case of Contracting Company under common seal of the Company or (ii) having the power of attorney issued, under common seal of the company with authority to execute Indemnity Bonds, (iii) In case of (ii), the original Power of Attorney if it is specifically for this Contract or a photostat copy of the Power of Attorney if it is General Power of Attorney and such documents should be attached to Indemnity Bond.

ANNEXURE-H

PROFORMA OF 'AGREEMENT'
(To be executed on non-judicial stamp paper)

This Agreement made this ..... day of .....,two thousand ..... between ____ having its Registered Office at ---------- (hereinafter referred to as the owner / '**BESCOM**' which expression shall include its administrators, successors, executors and permitted assigns) of the one part and M/s....., a company incorporated under the Companies Act, 1956 having its Registered Office at .....[hereinafter referred to as the 'Contractor' or "X" (name of the Contracting Co.) which expression shall include its administrators, successors, executors and permitted assigns] of the other part.

WHEREAS ____ desirous of setting up its Distribution System associated with. invited bids for ..... (briefly describe scope of work) against its Bid Specification No. .....

AND WHEREAS ..... "X" ..... had participated in the above referred bidding vide their Proposal No. ..... dated ..... and awarded the Contract to ..... "X" ..... on terms and conditions of the documents referred to therein, which have been acknowledged by ..... "X" ..... resulting into a "Contract".

NOW THEREFORE THIS DEED WITNESSETH AS UNDER: -

1.0 **Article**

1.1 **Award of Contract**

--------- has awarded the Contract to ..... "X" ..... for the work of..... on the terms and conditions contained in its Letter of Award No. ..... dated .... and the documents referred to therein. The award has taken effect from aforesaid Letter of Award. The terms and expressions used in this Agreement shall have the same meaning as are assigned to them in the 'Contract Documents' referred to in the succeeding Article.

2.0 **Contract Documents**

2.1 The Contract shall be performed strictly as per the terms and conditions stipulated herein and in the following documents attached herewith (hereinafter referred to as "Contract Documents').

i) --------'s Bidding Documents in respect of Specification No. ..... issued vide its letter No. ..... dated ..... consisting of Invitation to Bid, Instructions to Bidders,

General Terms & Conditions of Contract, Special Conditions of Contract and all other Sections entitled "Conditions of Contract" including all amendments issued vide its letter(s) No. (s) ..... dated .....

(Volume-I)

ii) ---------'s Technical Specifications including Amendments issued vide its Letter No. ..... dated .....

(Volume-II)

iii) "X"s Proposal No. ..... dated ..... alongwith Bid Proposal Sheets, Data Requirements, payment terms and Work Schedules submitted by "X" entitled as "....."

(Volume-III)

iv) Agreed Minutes of the meeting held on ..... between ----------and "X".

(Volume-IV)

v) ---------'s Letter of Award No. ..... dated ..... duly acknowledged by "X".

(Volume-V)

vi) Quality Plans for manufacturing and field activities entitled 'Quality Plan'.

(Volume-VI)

vii) Contract Network

(Volume-VII)

All the aforesaid Contract Documents shall form an integral part of this Agreement, in so far as the same or any part conform to the Bidding Documents (Vol. I & II) and what has been specifically agreed to by the ___ in its Letter of Award. Any matter inconsistent therewith, contrary or repugnant thereto or any deviations taken by the Contractor in its Proposal (Vol-III) but not agreed to specifically by the ___ in its Letter of Award shall be deemed to have been withdrawn by the Contractor. For the sake of brevity, this agreement alongwith its aforesaid Contract Documents shall be referred to as the 'Agreement'.

3.0 **Conditions & Covenants**

3.1 The scope of Contract, Consideration, Terms of Payment, Price Adjustment, Taxes wherever applicable, Insurance, Liquidated Damages, Performance Guarantee and all other terms and conditions are contained in ____'s Letter of Award No..... dated..... read in conjunction with other aforesaid Contract documents. The Contractor shall duly perform the Contract strictly and faithfully in accordance with the terms of the Agreement.

3.2 The scope of work shall also include supply and installation of all such items which are not specifically mentioned in the Contract documents, but which are needed for successful, efficient, safe & reliable operation of the equipment unless otherwise specifically excluded in the Specifications under 'Exclusions' or Letter of Award.

3.3 **Time Schedule**

3.3.1 Time is the essence of the Contract and schedules shall be strictly adhered to. 'X" shall perform the work in accordance with the agreed schedule as given in Volume - V & VI of Contract documents [clause 2.1(v & vi) above].

3.4 **Quality Plans**

3.4.1 The Contractor is responsible for the proper execution of the Quality Plans enclosed in Volume-VI. The work beyond the Customer Inspection Points (CIP) will progress only with the ___'s consent. The ___ will also undertake quality surveillance and quality audit of the Contractor's/Sub-Contractor's works, systems and procedures and quality control activities. The Contractor further agrees that any change in the Quality Plan will be made only with the Owner's approval. The Contractor shall also perform all quality control activities, inspection and tests agreed with the ___ to demonstrate full compliance with the Contract requirements.

3.4.2 The Contractor also agrees to provide the ____ with the necessary facilities for carrying out inspection, quality audit and quality surveillance of Contractor's and its Sub-Contractor's Quality Assurance Systems and manufacturing activities.

These shall include but not limited to the following:

i) Relevant plant standards, drawing and procedures;

(a) Detailed Quality Assurance System manuals for manufacturing activities,

iii) Storage procedures and instructions weld, NDT, heat treatment prior to commencement of manufacture;

iv) Complete set of log sheets (blank) mentioned in the quality plan.

3.4.3 It is expressly agreed to by the Contractor that the quality tests and Inspection by the Owner shall not in any way relieve the Contractor of its responsibilities for quality standards, and performance guarantee and their other obligations under the Agreement.

3.4.4 'X' agrees to submit Quality Assurance Documents package to ____ for review and record after completion and within three weeks of dispatch of material.

The package will include the following:

i) Factory test result/inspection reports for testing required by this Contract or applicable codes and standards;

ii) Two copies of inspection reports duly signed by Quality Assurance personnel of both ____ and 'X' for the agreed Customer Inspection Points;

iii) Report of the rectification works where and if applicable.

3.5$ It is expressly agreed to by the Contractor that notwithstanding the fact that the Contract is termed as Supply-cum-Erection Contract or indicates the break-up of the Contract consideration, for convenience of operation and for payment of sales tax on supply portion, it is in fact one composite Contract on single source responsibility basis and the Contractor is bound to perform the total Contract in its entirety and non-performance of any part or portion of the Contract shall be deemed to be a breach of the entire Contract.

3.6 The Contractor guarantees that the equipment supplied under the Contract shall meet the ratings and performance parameters as stipulated in the Technical Specifications (Volume-II) and in the event of any deficiencies found in the requisite performance figures, the ____ may at its option reject the equipment package or alternatively accept it on the terms and conditions and subject to levy of the liquidated damages in terms of Contract documents. The amount of liquidated damages so leviable shall be in accordance with the Contract documents and without any limitation.

3.7 It is further agreed by the Contractor that the Contract Performance Guarantee shall in no way be construed to limit or restrict the ___'s right to recover the damages/compensation due to short-fall in the equipment performance figures as stated in para 3.6 above or under any other clause of the Agreement. The amount of damages/compensation shall be recoverable either by way of deductions from the Contract price, Contract Performance Guarantee and/or otherwise.

The Contract Performance Guarantee furnished by the Contractor is irrevocable and unconditional and the ___ shall have the powers to invoke it notwithstanding any dispute or difference between the Owner and the Contractor pending before any court tribunal, arbitrator or any other authority.

3.8 This Agreement constitutes full and complete understanding between the parties and terms of the presents. It shall supercede any prior correspondence, terms and conditions contained in the Agreement. Only a written instrument signed by the authorised representative of both the parties shall effect any modification of the Agreement.

4.0 **SETTLEMENT OF DISPUTES**

4.1 It is specifically agreed by and between the parties that all the differences or disputes arising out of the Agreement or touching the subject matter of the Agreement shall be decided by the process of Settlement & Arbitration as specified in Clause..... and ..... of the General Terms & Conditions of the Contract and the provisions of the Indian Arbitration Act, 1940 shall apply and Jurisdictional Courts alone shall have exclusive jurisdiction over the same.

4.2 **Notice of Default**

Notice of default given by either party to the other party under Agreement shall be in writing and shall be deemed to have been duly and properly served upon the parties hereto if delivered against acknowledgment or by telex or by registered mail with acknowledgment due addressed to the signatories at the addresses mentioned herein above.

IN WITNESS WHEREOF, the parties through their duly authorised representatives have executed these presents (execution whereof has been approved by the competent authorities of both the parties) on the day, month and year first above mentioned.

WITNESS:

1. ..... (owner's signature)
(Printed Name)

2. ..... (Designation)
(Company's Stamp)

1. ..... (Contractor's signature)
(Printed Name)

2. ..... (Designation)
(Company's Stamp)

Applicable in case single award is placed on one party on Supply-cum-Erection basis. In case two separate awards are placed on single party/two different parties this clause is to be modified suitably while signing the Contract Agreement to be signed separately for two awards to incorporate cross-fall breach clause.